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September 12, 1991

RECEIVED**SEP 12 1991**

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M. Street, N.W.
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

Re: MM Rulemaking No. 7772

Dear Ms. Searcy:

Transmitted herewith, on behalf of The National
Translator Association, are an original facsimile and four
copies of its Comments in the above-captioned proceeding.

~~Transmitted herewith, on behalf of The National~~

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SEP 12 1991

Before the
Federal Communications Commission
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)

focus directly on the bottom line requirements for LPTV and television translator stations to enjoy more assured viability: accurate ratings reporting, must carry rights on cable systems, and greater credit when and if the LPTV licensee seeks a full service authorization.

I. The Increased Regulation
CBA Seeks Is Impractical

CBA states, very straightforwardly, that the intent of CBA's proposed change is to "allow LPTV stations that behave like conventional television stations to be treated as part of a unified television broadcasting industry." CBA apparently seeks for LPTV stations the opportunity to elect to be a full service television station, and proposes that LPTV stations be subjected in full to the Part 73 regulations applicable to full service television stations. The application of these regulations to LPTV stations without enforcement would be meaningless, and full application and

To so multiply the regulations to which some or all LPTV stations are subject, and to enact requirements which would entail comparative hearings in an age when the Commission is constrained by budgetary limitations and Congress is considering the imposition of spectrum fees to make the Commission self-supporting, is simply an impractical solution to the problems some LPTV stations may face, and may lead to unfair results favoring deep-pocket urban licensees at the expense of rural residents.

Many LPTV licensees dedicated to operating an LPTV or translator station as intended may lack the resources to exercise their Ashbacker rights and defend against the preclusion which might result from the facility increases sought by their more ambitious brethren -- LPTV licensees with the wherewithal to invest millions of dollars in elevating their stations to urban area competitors with existing full service stations. Indeed, CBA's own Petition illustrates that licensees seeking to increase the size of their service areas typically serve urban areas with sufficiently significant revenue potential to attract significant capital. If these licensees prevail by default over those who would commit their stations to serving smaller rural communities or smaller markets within an urban area, the result will be prostitution of the LPTV service.

The Commission sought to create in the LPTV service a

operate, so that local community groups and other local licensees could acquire them to serve their community. This is what LPTV licensees have applied for, and received, and the NTA cannot support LPTV licensees now trying to convert their authorized LPTV stations to full service stations at the expense of present and future LPTV and translator facilities.

II. The Specific Changes Sought By The CBA Are Ill-Advised

CBA appears to seek four specific changes in the LPTV/translator service. They are (1) conversion to four- or six-letter call signs, (2) change in the name for the service and authorized stations in the service from "Low Power Television" and "Translator" to something less negative, (3) increased power for certain stations, and (4) regulation of certain LPTV stations under all of the Part 73 regulations applicable to full service stations. Each of these changes is ill-advised.

A. Modified Call Signs

The CBA's call sign proposal appears to be the proverbial "tail wagging the dog." Because ratings services do not adequately accommodate the LPTV five-letter call signs, CBA proposes to "fix" the LPTV service, not the ratings system. It is not the LPTV service which is broken, however.

NTA has two basic concerns with the CBA's proposal to fix the LPTV service. First, thousands of LPTV and translator stations serving rural America have invested in "code keyers," which automatically transmit the stations' call signs in morse code through carrier shift. A change in the call sign format

may well impose on the licensees of these stations' unwarranted expenses of replacing or modifying these code keyers. Second, NTA perceives a danger that if the changes are adopted, purchasers of advertising time of television facilities, could be confused and misled as to the services on which they were buying time if LPTV and full service television stations had the same format call signs. Such confusion, even though unintentional, could result in loss of good will, expensive litigation, and even liability for LPTV operators.

In view of these concerns, NTA submits that any change in call-sign format for LPTV stations be optional only.

B. Change In Name Of The Service

The change in the name of the service is unnecessary and would also have deleterious effects upon traditional translator and LPTV licensees. NTA also notes that the definition CBA states is suggested by the term "translator" is precisely the definition of television translator stations. The NTA has expended its resources to educate Congress about the translator and LPTV service and, more importantly, to educate the Forest Service and Bureau of Land Management ("BLM") about the services in the context of the Forest Service's and BLM's establishment of fee schedules for communications uses of sites administered by those agencies. A change in the name for the service would render these

efforts for naught and result in a net loss for the service.² Thus, any such change in the name for the service should be elective to licensees and not implemented across-the-board. To the extent that CBA may seek application of the new term to the new class of stations it proposes, NTA has no objection to the name, but does object to the class of service.

C. Increased Power

NTA strongly objects to the proposal to increase the power of LPTV stations, as it would be detrimental to the service as a whole. CBA apparently proposes a new service in which full service television stations, albeit with reduced service areas, would be "engineered-in" between stations to which they would cause interference, much as in the AM and non-commercial educational FM services. Aside from the fact that LPTV operators have had the benefit of their bargain, and have been authorized with the facilities for which they applied, constructed, and operate at significantly less expense than they could a full service station, this proposal is ill-advised because of the preclusive effect it would have on the use of the spectrum by other and future translator and LPTV licensees.

Of greatest concern is the impingement this proposal may have on rural areas. The CBA's interest is clearly directed toward urban areas, which are already generally well

2. NTA notes that LPTV stations are not required to specifically identify themselves to the public as "low power" stations; and NTA doubts that any such stations do promote themselves in this way.

served with broadcast, cable, and even "wireless cable" services.³ In rural areas, translators and LPTV stations seek to bring a similar selection of programming alternatives to communities isolated by distance or terrain to those available in urban areas, with the initiation of services for which there is demand being limited both by financial considerations and the Commission's filing window procedures. The increase in the power of some (primarily urban) LPTV stations will represent inefficient use of the bandwidth which will have a preclusive or limiting effect on use of that same bandwidth by other LPTV and translator stations serving communities lying both inside and outside of the urban areas.

Finally, with respect to this point, NTA notes that at issue is the definition of community. CBA defines the relevant community of an LPTV station, for example, not as Georgetown or Arlington, but as the Washington, D.C. metropolitan area or as the ADI of a full service station licensed to Washington, D.C. NTA submits that this competitive response of the CBA and its members is misplaced. LPTV licensees should compete with narrowly focused programming to suit the needs of the community they do serve, or of specific population segments of that community, rather than to compete for sheer number of viewers by broadening their potential audience and resorting to "lowest common

3. Indeed, in many rural areas full service TV channels are available but are not operated, or are operated as satellites only, because they cannot be cost-justified.

denominator" programming. Indeed, NTA understands the former
to be the purpose of the IPTV service.

been frustrated in achieving, but are also goals which NTA does support. NTA would support these changes without the added baggage and egregiously deleterious effects of the other proposals in CBA's petition, most significantly CBA's proposed power increases.

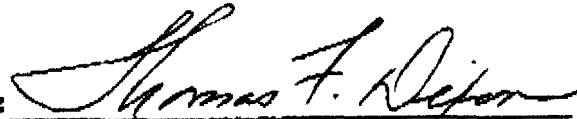
Conclusion

While CBA's apparent core goals are laudable and are strongly supported by NTA, NTA must, nevertheless, oppose the CBA Petition as a whole. The manner in which CBA would achieve these goals, and most particularly the proposed increases in station power, would have a severely deleterious effect on the service as a whole.

Respectfully submitted,

NATIONAL TRANSLATOR ASSOCIATION

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September 12, 1991

Footnote continued from previous page.

service licensees license renewal application, or to negotiate an assignment of the license.

Certificate of Service

I, Teresa M. Fisher, a secretary in the law firm of Holme
Roberts & Owen, do hereby certify that on this 12th day of